

TAREK SHAWKY (#245312)
Law Office of Tarek Shawky
871 E. Washington Bl. #205
Pasadena, CA 91104
Telephone: (323) 393-3301
Email: TShawky@ShawkyLaw.com

Attorney for Maher Fakhoury

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

UNITED STATES,

Plaintiff,

v.

MAHER FAKHOURY,

Defendant.

Case No. CR-23-00247-SPG-3

**NOTICE AND MOTION FOR
MODIFICATION OF
CONDITIONS OF RELEASE**

Hearing Date: May 22, 2024

Hearing Time: 9:30 am

Department: 5C

**TO: THE UNITED STATES ATTORNEY FOR THE CENTRAL
DISTRICT OF CALIFORNIA AND THE CLERK OF THE COURT,**

PLEASE NOTE that on the above referenced date and time or as soon the
matter may be heard by the Honorable Sherilyn Peace Garnett, Mr. Maher
Fakhoury, by and through counsel moves the court for an order to modify his
conditions of release.

Dated May 15, 2024

Respectfully Submitted,

/S/

Tarek Shawky
Attorney for Maher Fakhoury

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATEMENT OF FACTS

On July 7, 2023, the Honorable Karen L. Stevenson, US Magistrate Judge ordered that the defendant Mr. Maher Fakhoury be released on \$100,000 appearance bond. Judge Stevenson ordered the defendant released on a number of additional conditions outlined in the attached release order. (Exhibit A, Docket Item #87). Those conditions of release included among other things search terms, surrender of all travel documents, travel restrictions, and location monitoring at the discretion of pretrial release. Mr. Fakhoury has remained in compliance of all his terms since that date and has had no issues while on pretrial release.

Unfortunately, Mr. Fakhoury does have a history of significant medical issues including diabetes, high blood pressure, asthma, neuropathy, and degenerative spinal disease. On or about April 2, 2024, Mr. Fakhoury was admitted to a medical nursing facility in Riverside, California. His counsel has been in touch with Fakhoury's pre-trial services officers about the situation, and the officers are aware of the concerns and have no objection to the removal of the electronic ankle monitor at this time. Counsel spoke to Mr. Fakhoury on May 15, 2024, and was advised that Mr. Fakhoury is experiencing pain and numbness in his feet as a result of the neuropathy for which he is being treated. He also advised that he is experiencing swelling in his feet that is further complicated by the ankle

1 monitor device that appears to be restricting blood flow to his foot. (Exhibit
2 B, photo). Counsel also spoke with pretrial services officer Cameron Pitcher
3 on May 15, 2024 who visited Mr. Fakhoury at the medical facility where he
4 has been since April 2nd and Mr. Pitcher has no objection to the removal of
5 the device given the situation.
6
7
8

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 **1. THE COURT MAY REVIEW AND AMEND A PRIOR** 11 **DETENTION ORDER PURSUANT TO 18 U.S.C § 3145(a)(2)**

12
13 18 USC §3145(a)(2) provides that if a person is ordered released by a
14 magistrate judge the person may file a motion for amendment of the
15 conditions of release. (18 USC 3145(a)(2)). Mr. Fakhoury has been
16 complying with all the terms and conditions of his release from the date of
17 his release on July 7, 2023, until the present time. On or about April 2, 2024,
18 Mr. Fakhoury was admitted to “Illumination Foundation,” a nursing facility
19 located in Riverside, California. He is currently being treated there for high
20 blood pressure, diabetes, asthma, neuropathy and degenerative spinal
21 disease. One of the symptoms of his conditions includes swelling of his legs
22 and feet. (Exhibit B). The electronic ankle monitor does not help with the
23 swelling or treatment of Mr. Fakhoury in his current state.
24
25
26
27
28

1 The court is authorized to order that the ankle monitor be removed,
2 and Mr. Fakhoury and his counsel would encourage the court to reach out to
3 the pretrial services officer in charge of Mr. Fakhoury as the officer has
4 represented to counsel that there is no objection to removing the monitor at
5 this time.
6

7
8
9 **CONCLUSION**

10 Mr. Maher Fakhoury remains on supervised released on \$100,000
11 bond as well as pretrial supervision which includes a number of terms and
12 conditions outlined in the attached release order and bond form. (Exhibit A).
13 At this time the defense respectfully requests that the court modify the
14 conditions of Mr. Fakhoury's release and allow him to remain on supervised
15 release without the electronic ankle monitor.
16
17
18
19

20 Date: May 15, 2024

Respectfully Submitted

21
22
23 /S/

24 _____
Tarek Shawky
25
26
27
28

DECLARATION OF COUNSEL

1. My name is Tarek Shawky (CSB# 245312), and I am the attorney of record for Mr. Maher Fakhoury.
2. I have represented Mr. Fakhoury since 2019 in this matter and have been communicating with his medical providers who treated him in and out of custody, and during that time I have become informed and aware that Mr. Maher Fakhoury suffers from a number of medical conditions including high blood pressure, diabetes, asthma, degenerative spinal disease and has been recently diagnosed with neuropathy.
3. On May 15, 2024, I communicated with a medical provider as well Mr. Fakhoury's pretrial services officer and both recommend that Mr. Fakhoury's ankle monitor be removed given his complicated medical situation.
4. I declare that the forgoing is true and correct.

May 15, 2024

/S/

Tarek Shawky

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Case Name: United States of America v. Maher FakhouryCase No. 2:23-cr-00247-SPG-3☒ Defendant ☐ Material WitnessViolation of Title and Section: 21:802(32)(A); 813; 841(a)(1)(b)(1) (C); 846; 18:1956(h)(4)☐ Summons ☒ Out of District ☐ UNDER SEAL ☒ Modified Date: 7/6/23

Check only one of the five numbered boxes below and any appropriate lettered box (unless one bond is to be replaced by another):

1. <input type="checkbox"/> Personal Recognizance (Signature Only) 2. <input type="checkbox"/> Unsecured Appearance Bond \$ _____ 3. <input checked="" type="checkbox"/> Appearance Bond \$ <u>100,000.00</u> (a.) <input type="checkbox"/> Cash Deposit (Amount or %) (Form CR-7) _____ (b.) <input checked="" type="checkbox"/> Affidavit of Surety Without Justification (Form CR-4) Signed by: <u>Harith Fakhoury or a</u> <u>responsible 3rd party</u> _____ <u>**Release upon the execution of the</u> <u>affidavit of surety and surrender of the</u> <u>passport.</u> <u>**ORDER OF BOND IS STAYED</u> <u>UNTIL 6/30/23 @5:00p.m.</u> _____ _____	(c.) <input type="checkbox"/> Affidavit of Surety With Justification (Form CR-3) Signed by: _____ _____ _____ <input type="checkbox"/> With Full Deeding of Property: _____ _____ _____ _____ 4. <input type="checkbox"/> Collateral Bond in the Amount of (Cash or Negotiable Securities): \$ _____ 5. <input type="checkbox"/> Corporate Surety Bond in the Amount of: \$ _____ _____	Release Date: <u>7/7/2023</u> <input checked="" type="checkbox"/> Released by: <u>KS</u> / <u>gr</u> (Judge / Clerk's Initials) <input checked="" type="checkbox"/> Release to U.S. Probation and Pretrial Services ONLY <input type="checkbox"/> Forthwith Release _____ <input type="checkbox"/> All Conditions of Bond (Except Clearing-Warrants Condition) Must be Met and Posted by: _____ <input type="checkbox"/> Third-Party Custody Affidavit (Form CR-31) <input checked="" type="checkbox"/> Bail Fixed by Court: <u>KS</u> / <u>gr</u> (Judge / Clerk's Initials)
---	--	--

PRECONDITIONS TO RELEASE

- ☐ The government has requested a Nebbia hearing under 18 U.S.C. § 3142(g)(4).
☐ The Court has ordered a Nebbia hearing under § 3142 (g)(4).
☐ The Nebbia hearing is set for _____ at _____ ☐ a.m. ☐ p.m.

ADDITIONAL CONDITIONS OF RELEASE

In addition to the GENERAL CONDITIONS of RELEASE, the following conditions of release are imposed upon you:

- ☒ Submit to United States Probation and Pretrial Services supervision as directed by Supervising Agency.
☒ Surrender all passports and travel documents to Supervising Agency no later than 6/30/23-4:00p.m., sign a Declaration re Passport and Other Travel Documents (Form CR-37), and do not apply for a passport or other travel document during the pendency of this case.
☒ Travel is restricted to CDCA unless prior permission is granted by Supervising Agency to travel to a specific other location. Court permission is required for international travel as well as for any domestic travel if the defendant is in a Location Monitoring Program or as otherwise provided for below.
☒ Reside as approved by Supervising Agency and do not relocate without prior permission from Supervising Agency.

Defendant's Initials: M.F.Date: 7/6/23

Case Name: United States of America v. Maher Fakhoury

Case No. 2:23-cr-00247-SPG-3

☒ Defendant ☐ Material Witness

- ☒ Maintain or actively seek employment unless excused by Supervising Agency for schooling, training, or other reasons approved by Supervising Agency. Verification to be provided to Supervising Agency. ☒ Employment to be approved by Supervising Agency.
- ☒ Avoid all contact, directly or indirectly (including by any electronic means), with any known victim or witness in the subject investigation or prosecution, ☐ including but not limited to _____; ☐ except for _____.
- ☒ Avoid all contact, directly or indirectly (including by any electronic means), with any known codefendants except in the presence of counsel. Notwithstanding this provision, you may have contact with the following codefendants without your counsel present: _____.
- ☐ Do not possess any firearms, ammunition, destructive devices, or other dangerous weapons. ☐ Surrender any such item as directed by Supervising Agency by _____ and provide proof to Supervising Agency. ☐ In order to determine compliance, you agree to submit to a search of your person and property by Supervising Agency, which may be in conjunction with law enforcement.
- ☐ Do not use or possess any identification, mail matter, access device (including, but not limited to, credit and debit cards), or any identification-related material other than in your own legal or true name without prior permission from Supervising Agency.
- ☐ In order to determine compliance, you agree submit to a search of your person and property by Supervising Agency, which may be in conjunction with law enforcement.
- ☐ Do not engage in telemarketing.
- ☐ Do not sell, transfer, or give away any asset valued at \$ _____ or more without notifying and obtaining permission from the Court, except _____.
- ☐ Do not engage in tax preparation for others.
- ☐ Do not use alcohol. ☐ Submit to alcohol testing. If directed to do so, participate in outpatient treatment as approved by Supervising Agency. Testing may include any form of prohibited-substance screening or testing. You must pay all or part of the costs for testing based upon your ability to pay as determined by Supervising Agency.
- ☒ Do not use or possess illegal drugs or state-authorized marijuana. ☐ Submit to drug testing. Testing may include any form of prohibited-substance screening or testing. You must pay all or part of the costs for testing based upon your ability to pay as determined by Supervising Agency. If directed to do so, participate in outpatient treatment as approved by Supervising Agency.
- ☒ In order to determine compliance, you agree to submit to a search of your person and property by Supervising Agency, which may be in conjunction with law enforcement.
- ☐ Do not use for purposes of intoxication any controlled substance analogue as defined by federal law or any street, synthetic, or designer psychoactive substance capable of impairing mental or physical functioning more than minimally, except as prescribed by a medical doctor.
- ☐ Participate in residential substance abuse treatment as directed by Supervising Agency. You must pay all or part of the costs of treatment based upon your ability to pay as determined by Supervising Agency. ☐ Release to Supervising Agency only.
- ☒ Participate in mental health treatment, which may include evaluation, counseling, or treatment as directed by Supervising Agency. You must pay all or part of the costs based upon your ability to pay as determined by Supervising Agency.

Defendant's Initials: X M.F.Date: X 7/6/23

Case Name: United States of America v. Maher FakhouryCase No. 2:23-cr-00247-SPG-3☒ Defendant ☐ Material Witness

- ☒ Participate in the Location Monitoring Program marked below and abide by all of the requirements of the program and any indicated restrictions, under the direction of the Supervising Agency. You must pay all or part of the costs of the program based upon your ability to pay as determined by the Supervising Agency. You are financially responsible for any lost or damaged equipment.

1. Location Monitoring Restrictions (Select One)☒ Location Monitoring only - no residential restrictions☐ Curfew: Curfew requires you to remain at home during set time periods. (Select One)☐ As directed by Supervising Agency; or☐ You are restricted to your residence every day from _____ to _____

☐ Home Detention: Home detention requires you to remain at home at all times except for employment, education, religious services, medical needs or treatment, attorney visits, court appearances and obligations, essential needs, and _____, all of which must be preapproved by the Supervising Agency.

☐ Home Incarceration: Home Incarceration requires you to be at home 24 hours a day except for medical needs or treatment, attorney visits, court appearances or obligations, and _____, all of which must be preapproved by Supervising Agency.

2. Location Monitoring Technology (Select One)☒ Location Monitoring technology at the discretion of the Supervising Agency. (If checked, skip to 3)☐ Location Monitoring with an ankle monitor (Select one below)☐ at the discretion of the Supervising Agency or☐ Radio Frequency (RF) or☐ Global Positioning System (GPS)

or

☐ Location Monitoring without an ankle monitor (Select one below)☐ at the discretion of the Supervising Agency or☐ Virtual/Biometric (smartphone required to participate) or☐ Voice Recognition (landline required to participate)**3. Location Monitoring Release Instructions (Select One)**☒ Release to Supervising Agency only or ☐ Enroll in the location monitoring program within 24 hours of release.☐ You are placed in the third-party custody (Form CR-31) of _____.

☐ Clear outstanding ☐ warrants or ☐ DMV and traffic violations and provide proof to Supervising Agency within _____ days of release from custody.

Defendant's Initials: M.F.Date: 7/6/23

Case Name: United States of America v. Maher FakhouryCase No. 2:23-cr-00247-SPG-3☒ Defendant ☐ Material Witness

- ☒ Possess and use only those digital devices, screen usernames, email accounts, social media accounts, messaging applications and cloud storage accounts, as well as any passwords or passcodes for all such digital devices and accounts, that you disclosed to Supervising Agency upon commencement of supervision. You must disclose any new devices, accounts, application, passwords, or passcodes to Supervising Agency prior to the first use. A digital device is any electronic system or device that can access, view, obtain, store, or transmit digital data. ☒ In order to determine compliance, you agree to submit to a search of your person and property, including digital devices, by Supervising Agency, which may be in conjunction with law enforcement.
- ☒ All digital devices will be subject to monitoring by Supervising Agency. You must comply with the rules and regulations of the Computer Monitoring Program and must pay the cost of the Computer Monitoring Program.
- ☒ Do not use or possess more than one virtual currency wallet/account, and that one wallet/account must be used for all virtual currency transactions. Do not obtain or open a virtual currency wallet/account without prior approval of Supervising Agency. You must disclose all virtual currency wallets/accounts to Supervising Agency when supervision starts and must make them available to Supervising Agency upon request. You may use or possess only open public blockchain virtual currencies and are prohibited from using private blockchain virtual currencies unless prior approval is obtained from Supervising Agency. ☒ In order to determine compliance, you agree to submit to a search of your person and property, including computer hardware and software, which may be in conjunction with law enforcement.

Cases Involving a Sex-Offense Allegation

- ☐ Possess and use only those digital devices, screen usernames, email accounts, social media accounts, messaging applications and cloud storage accounts, as well as any passwords or passcodes for all such digital devices and accounts, that you disclosed to Supervising Agency upon commencement of supervision. You must disclose any new devices, accounts, application, passwords, or passcodes to Supervising Agency prior to the first use. A digital device is any electronic system or device that can access, view, obtain, store, or transmit visual depictions of sexually explicit conduct involving children. ☐ In order to determine compliance, you agree to submit to a search of your person and property, including digital devices, by Supervising Agency, which may be in conjunction with law enforcement.
- ☐ All digital devices will be subject to monitoring by Supervising Agency. You must comply with the rules and regulations of the Computer Monitoring Program and must pay the cost of the Computer Monitoring Program.
- ☐ Do not associate or have verbal, written, telephonic, electronic, or any other communication with any person under the age of 18 except in the presence of the parent or legal guardian of the minor after you have notified the parent or legal guardian of the pending charges or convictions involving a sex offense and only as authorized by Supervising Agency
- ☐ Do not enter or loiter within 100 feet of schoolyards, parks, public swimming pools, playgrounds, youth centers, video arcade facilities, amusement and theme parks, or other places frequented by persons under the age of 18 and only as authorized to do so by Supervising Agency.
- ☐ Do not be employed by, affiliated with, own, control, or otherwise participate directly or indirectly in the operation of any daycare facility, school, or other organization dealing with the care, custody, or control of children under the age of 18.
- ☐ Do not view or possess child pornography or child erotica, including but not limited to pictures, photographs, books, writings, drawings, or videos depicting or describing child pornography. ☐ In order to determine compliance, you agree to submit to a search of your person and property, including computer hardware and software, by Supervising Agency, which may be in conjunction with law enforcement..

Defendant's Initials: X M.F. Date: X 7/6/23

Case Name: United States of America v. Maher Fakhoury

Case No. 2:23-cr-00247-SPG-3

☒ Defendant ☐ Material Witness☒ Other conditions:

Def's place of Residence must be confirmed by PSA prior to release.

GENERAL CONDITIONS OF RELEASE

I will appear in person in accordance with any and all directions and orders relating to my appearance in the above entitled matter as may be given or issued by the Court or any judicial officer thereof, in that Court or before any Magistrate Judge thereof, or in any other United States District Court to which I may be removed or to which the case may be transferred.

I will abide by any judgment entered in this matter by surrendering myself to serve any sentence imposed and will obey any order or direction in connection with such judgment as the Court may prescribe.

I will immediately inform United States Probation and Pretrial Services and my counsel of any change in my contact information, including my residence and telephone number, including cell phone number, so that I may be reached at all times.

I will not commit a federal, state, or local crime during the period of release. I will inform Supervising Agency of law enforcement contact within 72 hours of being arrested or questioned by a law enforcement officer.

I will not intimidate any witness, juror, or officer of the court or obstruct the criminal investigation in this case. Additionally, I will not tamper with, harass, or retaliate against any alleged witness, victim, or informant in this case. I understand that if I do so, I may be subject to further prosecution under the applicable statutes.

I will cooperate in the collection of a DNA sample under 42 U.S.C. § 14135a.

Defendant's Initials: X *M.F.*Date: X 7/6/23

Case Name: United States of America v. **Maheer Fakhoury**

Case No. 2:23-cr-00247-SPG-3

☒ Defendant ☐ Material Witness**ACKNOWLEDGMENT OF DEFENDANT/MATERIAL WITNESS**

As a condition of my release on this bond, pursuant to Title 18 of the United States Code, I have read or have had interpreted to me and understand the general conditions of release, the preconditions, and the additional conditions of release and agree to comply with all conditions of release imposed on me and to be bound by the provisions of Local Criminal Rule 46-6.

Furthermore, it is agreed and understood that this is a continuing bond (including any proceeding on appeal or review) which will continue in full force and effect until such time as duly exonerated.

I understand that violation of any of the general and/or additional conditions of release of this bond may result in a revocation of release, an order of detention, and a new prosecution for an additional offense which could result in a term of imprisonment and/or fine.

I further understand that if I fail to obey and perform any of the general and/or additional conditions of release of this bond, this bond may be forfeited to the United States of America. If said forfeiture is not set aside, judgment may be summarily entered in this Court against me and each surety, jointly and severally, for the bond amount, together with interest and costs. Execution of the judgment may be issued or payment secured as provided by the Federal Rules of Criminal Procedure and other laws of the United States, and any cash or real or personal property or the collateral previously posted in connection with this bond may be forfeited.

☒ 07/06/2023

Date

☒ *Maheer Fakhoury*

Signature of Defendant / Material Witness

☒ (323)393-3301 (attorney phone)

Telephone Number

☒ Los Angeles, CA

City and State (DO NOT INCLUDE ZIP CODE)

☐ Check if interpreter is used: I have interpreted into the _____ language this entire form and have been told by the defendant that he or she understands all of it.

Interpreter's Signature

Date

Approved: *Karen H. Stevenson*

United States District Judge / Magistrate Judge

Date

July 7, 2023

If cash deposited: Receipt # _____ for \$ _____

(This bond may require surety agreements and affidavits pursuant to Local Criminal Rule 46.)

Defendant's Initials: *M.F.*Date: ☒ 7/6/23

EXHIBIT B



1
2
3
4
5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
7 **WESTERN DIVISION**

8 UNITED STATES,

Case No. CR-23-00247-SPG-3

9 Plaintiff,

10 **PROPOSED ORDER**

11 v.

12 MAHER FAKHOURY,

13 Defendant.
14

15 Finding good cause, the court grants Maher Fakhoury's request to modify
16 the conditions of his release and orders that he be allowed to remove the
17 electronic ankle monitor during his pretrial release.
18
19
20
21
22

23
24 _____
25 Sherilyn Peace Garnett,
26 United States District Judge
27
28